

REMARKS

Claims 1-9, 11-14, 16-18, and 20-22 are pending herein. By this Amendment, claims 10, 15, and 19 are canceled. Claim 17 is amended to recite subject matter previously recited in original claim 18, and the same subject matter is removed from claim 18.

Accordingly, no new matter is added by this Amendment.

I. Allowable Subject Matter

Applicant gratefully acknowledges that the Patent Office has indicated that the subject matter of claim 2, if rewritten in independent form including all of the limitations of the base claim and any intervening claims, is allowable subject matter.

Applicant also notes that claim 8 was not rejected under any grounds by the Patent Office. Thus, Applicant assumes that the subject matter of claim 8, if rewritten in independent form including all the limitations of the base claim and any intervening claims, would also be allowable subject matter.

II. Claim Objections

Claims 10, 15, and 19 were objected to by the Patent Office under 37 CFR 1.75(c) for allegedly being of improper form. Applicant respectfully traverses the objection.

By this Amendment, claims 10, 15, and 19 are canceled.

As the claims objected to by the Patent Office have been canceled, Applicant submits that the objection to the claims is now moot. Thus, Applicant respectfully requests that the objection to claims 10, 15, and 19 be removed. Reconsideration and withdrawal of the objection are respectfully requested.

III. Claim Rejections under 35 USC §102

A. Claims 1, 3, 9-11 and 14-16

Claims 1, 3, 9-11, and 14-16 were rejected by the Patent Office under 35 USC §102(a and e) as allegedly being anticipated by US Patent Publication No. 2003/0115767 to Wedekind et al. (hereinafter "Wedekind"). Applicant respectfully traverses the rejection.

Wedekind fails to anticipate the present invention because Wedekind fails to disclose, either explicitly or implicitly, each and every aspect of the present invention as recited in claim 1. In particular, Wedekind fails to describe a reusable template of the present claim 1 comprising "a single layer material comprising one or more lines of weakness that permit snapping off parts of the template without a cutting instrument."

Instead, Wedekind describes a device for use as a guide having at least three layers: a template, an adhesive means, and a protective backing. This is readily exemplified in Wedekind's Fig. 11A in which the template 90 is attached to the protective backing 214 via the adhesive means (not shown).

In addition to pictorially illustrating only a three layered device for use as a guide, Wedekind describes the template of being "a circular relatively thin piece of paper 212 or other material ... having printed indicia permanently or semi permanently placed thereon. The template 90 includes an adhesive means (not shown) on the side opposite the printed indicia." (See paragraph [0051]. Emphasis added.)

Wedekind's claim 1 also describes the device as comprising at least two layers, namely "a template" and "an adhesive coating operatively positioned in said backside of said template."

Claim 1 of the present invention comprises a single layer material. A single layer material reduces costs of manufacturing, and obviates potential frustration of working with sticky material such as an adhesive when and where not needed or desired.

Wedekind, however, actually describes having more than merely two layers in the device. The above description from Wedekind continues in describing that the "template 90 has a protective backing 214 supplied with the template 90 covering the side of the template having the adhesive means. The protective backing 214 enables the adhesive on the backside of the template 90 to retain its adhesive properties until the template 90 is ready to be applied to a surface of a planar member 52." (See paragraph [0051].)

Thus, Wedekind also includes a third layer in the device, namely a protective backing 214. Based on Wedekind's description, it seem evident that the protective backing is needed or else the adhesive means would lose its adhesive properties and become essentially unusable or its purposes.

In describing using the device of Wedekind, the template 90 is described as being "separated" from the backing, thereby stating that there are multiple layers in the Wedekind device. In addition, Wedekind describes "peeling ... the template 90 from the backing 214." (See, for example, paragraphs [0074]-[0075].) "Separating" and/or "peeling" the template from the backing clearly implies that the device is more than a single layer material as opposed to the template of the present invention. Further, Wedekind fails to ever describe the template 90 without the adhesive means and/or the protective backing. Thus, Wedekind clearly describes a multiple layered device for use as a guide.

In contrast to the three layers of the Wedekind device, claim 1 of the present invention sets forth merely a single layer material. The single layer material reduces manufacturing costs as there are fewer materials needed and fewer steps in producing such a template. Further, fewer layers also reduces waste after using the product, especially as the present invention can be reused.

Claim 1 of the present invention is a template comprising a single layer material comprising one or more lines of weakness that permit snapping off parts of the template without a cutting instrument, and not a multiple layers device as in Wedekind. Claims 10 and 15 are canceled by this Amendment. Claims 3, 9, 11, 14, and 16 are dependent upon claim 1, and thereby include all the limitations of claim 1. Thus, as Wedekind fails to describe claim 1, Wedekind fails to describe the subject matter of dependent claims 3, 9, 11, 14, and 16 of the present invention.

For the foregoing reasons, Applicant submits that Wedekind fails to anticipate the present invention. Reconsideration and withdrawal of the rejection are respectfully requested.

B. Claims 17 and 20

Claims 17 and 20 were rejected by the Patent Office as under 35 USC §102(b) as allegedly being anticipated by US Patent No. 5,922,157 to Snider (hereinafter "Snider"). Applicant respectfully traverses the rejection.

By this Amendment, claim 17 is amended to include limitations of claim 18. In particular, claim 17 is amended to recite that the template comprises a single layer material comprising one or more lines of weakness that permit snapping off parts of the template without a cutting instrument. Claim 20 is dependent on claim 17.

Snider fails to anticipate the present invention because Snider fails to disclose, either explicitly or implicitly, each and every aspect of the present invention as recited in claim 1. In particular, Snider fails to describe a single layer material having one or more lines of weakness that permit snapping off parts of the template without a cutting instrument as recited in independent claim 17.

Instead, Snider describes a method of installing a piece of tile by positioning a template where an eventually cut tile will be laid. The template is folded or creased at a position where the template faces an obstruction. The template is then removed from where it was positioned and "a razor or utility knife 58 is then guided along the marked portions of crease lines ..." (See, column 5, lines 57-59 of Snider.)

Snider fails to describe the present invention having a template comprising lines of weakness that permit snapping off parts of the template without a cutting instrument. Not requiring a cutting instrument, as in the present invention, reduces the need for additional equipment, and makes the job safer and easier as there are fewer chances of injury using the present invention.

As Snider fails to anticipate claim 17, and thereby also dependent claim 20, Applicant submits that Snider fails to anticipate claims 17 and 20. Thus, reconsideration and withdrawal of the rejection are respectfully requested.

IV. Claim Rejections under 35 USC §103(a)

A. Claims 1, 3-6, 9-16, 18, 19, 21 and 22

Claims 1, 3-6, 9-16, 18, 19, 21 and 22 were rejected by the Patent Office under 35 USC §103(a) as allegedly being obvious over Snider as recited in the above §102 rejection for claims 17 and 20, in view of Wedekind. Applicant respectfully traverses the rejection.

By this Amendment, claims 10, 15, and 19 are canceled. Thus, the rejection of claims 10, 15, 19 is now moot.

Snider fails to teach or suggest the template and method of independent claims 1 and 17 of the present invention. In particular, by admission of the Patent Office, Snider fails to teach or suggest the present invention having a single layer material comprising lines of weakness that permit snapping off parts of the template without a cutting instrument.

Wedekind fails to remedy the deficiencies of Snider. Instead, Wedekind teaches a multiple layered device including a template, an adhesive means, and a protective backing.

As set forth above, Wedekind fails to teach or suggest the present invention of independent claims 1 and 17 comprising a template comprising a single layer material having lines of weakness that permit snapping off parts of the template without a cutting instrument.

For the foregoing reasons, Applicant submits that Snider and Wedekind, whether taken singly or in combination, fail to teach or suggest the subject matter of claims 1, 3-6, 9, 11-14, 16, 18, 21, and 22 of the present application. Reconsideration and withdrawal of the rejection are respectfully requested.

B. Claim 7

Claim 7 was rejected by the Patent Office under 35 USC §103(a) as allegedly being obvious over the combination of Snider in view of Wedekind as applied above, and allegedly taught by US Patent No. 5,577,328 to Kerry, Sr. (hereinafter "Kerry"). Applicant respectfully traverses the rejection.

Claim 7 is dependent upon claim 1. Thus, claim 7 includes all the limitations of independent claim 1.

As set forth above, Snider fails to teach or suggest the present invention.

In particular, by admission of the Patent Office, Snider fails to teach or suggest the present invention of claim 1 having a single layer material comprising lines of weakness that permit snapping off parts of the template without a cutting instrument.

Wedekind fails to remedy the deficiencies of Snider. Instead, Wedekind teaches a multiple layered device including a template, an adhesive means, and a protective backing.

As set forth above, Wedekind fails to teach or suggest the present invention of independent claim 1 comprising a template comprising a single layer material having lines of weakness that permit snapping off parts of the template without a cutting instrument.

Kerry fails to remedy the deficiencies of Snider and Wedekind.

Kerry is relied upon by the Patent Office as allegedly teaching using diagonal slots on a template to mark diagonal lines. However, Kerry also fails to teach or suggest the present invention of independent claim 1 comprising a template comprising a single layer material having lines of weakness that permit snapping off parts of the template without a cutting instrument.

Further, the diagonal lines of weakness of the present invention that permit snapping off parts of the template without a cutting instrument are different from slots in the Kerry template that allow for marking diagonal lines. The lines of weakness in the present invention, whether diagonal, horizontal, or vertical, allow for removal of part of the template without the use of an instrument, such as, for example, a knife. Kerry merely teaches that an individual may draw a diagonal line

using a template, but fails to teach or suggest lines of weakness for removal of part of the template without the use of an additional instrument.

Thus, for the foregoing reasons, Applicant submits that Snider, Wedekind, and Kerry, whether taken singly or in combination, fail to teach or suggest the present invention. Reconsideration and withdrawal of the rejection are respectfully requested.

V. Conclusion

In view of the foregoing amendments and remarks, Applicant submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-9, 11-14, 16-18, and 20-22 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David M. Lafkas', enclosed within a large, loopy oval shape.

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DML/hs

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